

**UNITED STATES DISTRICT COURT  
IN THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION**

**LAVERNE JOHNSON,**

**Plaintiff,**

**v.**

**PARKWOOD BEHAVIORAL HEALTH  
SYSTEM, an entity owned by  
UNIVERSAL HEALTH SERVICES  
FOUNDATION, a/k/a UNIVERSAL  
HEALTH SERVICES, INC. a Foreign  
Corporation,**

**Defendant.**

**Case No. 2:11-CV-212  
Jury Demand**

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**DEFENDANT PARKWOOD BEHAVIORAL HEALTH SYSTEM'S MOTION FOR  
SUMMARY JUDGMENT**

Defendant Parkwood Behavioral Health System (improperly identified as an entity owned by Universal Health Services Foundation a/k/a Universal Health Services, Inc.) ("Parkwood" or "Defendant") is entitled to judgment as a matter of law, as there are no genuine issue of material fact and Plaintiff's case should be dismissed as a matter of law.

Plaintiff is unable to establish a *prima facie* case of disability discrimination and/or retaliation. Plaintiff's termination resulted from her inability or refusal to perform her job, despite being coached and warned multiple times. Plaintiff's termination had absolutely nothing to do with any alleged disability. Likewise, Plaintiff cannot establish that she engaged in any protected activity or any causal connection to her termination, and therefore her retaliation claims fails. Plaintiff also cannot establish a *prima facie* case of failure to accommodate under the American's With Disabilities Act ("ADA") because Parkwood provided Plaintiff with every reasonable accommodation requested.

Finally, Plaintiff is unable to prove that Parkwood's legitimate nondiscriminatory/non-retaliatory reason for her discharge – her failure to perform her duties despite repeated counseling and warnings - was pretext. As such, Parkwood is entitled to judgment as a matter of law, and Plaintiff's lawsuit should be dismissed.

For the reasons stated above and in Defendant's Memorandum Supporting Summary Judgment, Plaintiff's claims fail as a matter of law and should be dismissed.

Date: March 5, 2013

Respectfully submitted,

*s/ Marcia Dawn McShane*

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*s/ Joseph Michael Koury*

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*w/ permission by Marcia Dawn McShane*  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was filed electronically via the Court's electronic filing system in which a copy will be provided to the following counsel of record: Mr. Keith M. Alexander, Esq., Lipscomb Pitts Building, Suite 818, Box 23, 2670 Union Avenue Extended, Memphis, TN 38112 and Dana J. Swan, PO Box 428, Clarksdale, MS 38614, on this 5<sup>th</sup> day of March, 2013.

s/ *Marcia Dawn McShane*